

## **REMARKS**

Claims 1-30 are pending in the application. Claims 28-30 have been withdrawn from further consideration.

Claims 1 and 23 have been amended to overcome the objections set forth in paragraphs 2 and 3 of the Office Action.

Claims 1-27 stand rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, obvious under 35 U.S.C. § 103(a) in view of Haffner et al. '900 "as further evidenced" by the PCT publication WO 01/83599 A1 to Morman et al. Applicants respectfully submit that claims 1 and 27 as amended and presented herein patentably distinguish over Haffner et al. '900 alone or in combination with the other reference of record including the Morman et al. '599 publication, as discussed below.

Claim 1 as amended herein calls for a breathable laminate formed from a nonwoven support layer bonded to an oriented film. The film includes a letdown resin phase having an ethylene copolymer with a density between 0.900 and 0.974 and melt index of 6 or less. The oriented film also includes a carrier resin phase comprising a filler in a different ethylene polymer or copolymer having a density at least about 0.003 g/cc greater than the density of the letdown resin. Substantially all of the filler particles in the oriented film are contained within discreet regions of the carrier resin phase, as depicted for example in the cross-sectional illustration of Figure 1. As explained throughout the specification, the film formulations for the letdown and carrier resins result in better film properties, particularly when used as breathable films in absorbent article constructions. The improved film formulation results in a film/nonwoven laminate with increased cross machine direction (CD) extensibility and integrity. As explained at

page 7 of the specification, important to the design of the film/nonwoven laminate is the selection of a letdown resin having the density and melt index parameters as set forth in claim 1.

The film construction of the laminate according to Haffner et al. '900, particularly the intermediate breathable layer 16 cited by the Examiner, is not in accordance with claim 1 of the present application. As described at column 8, line 64 through column 9, line 4, the breathable intermediate layer 16 comprises two components, namely an "amorphous polymer" component and a filler. The amorphous polymer component is expressly defined as having a density less than 0.89 g/cc, and desirably about 0.87 g/cc. At column 4, lines 58 through 63, the term "amorphous polymer" is expressly defined as a thermoplastic polymer with a density in the range of from about 0.845 to about 0.89 g/cc. Thus, even if these polymer and filler components were considered as corresponding to the carrier resin and filler of claim 1, the density limitations of claim 1 are not satisfied. For example, claim 1 calls for the carrier resin to have a density that is at least 0.003 greater than the density of the letdown resin. The claimed density of the letdown resin is, in turn, between 0.900 and 0.915 g/cc. At column 10, lines 8 through 11, Haffner et al. '900 describes that another polymer may be blended with the amorphous polymer component, namely a polyethylene polymer having a density ranging from about 0.90 to about 0.95 g/cc. This polymer does not include the filler, and thus could only correspond to the letdown resin of claim 1, and not the filled carrier resin.

It is also respectfully submitted that Haffner et al. '900 does not necessarily disclose a film having discreet regions of a letdown resin and a carrier resin wherein

substantially all of the filler particles within the film are contained within the discreet carrier regions, as illustrated in Figure 1 of the present application. As explained at page 7 of the present application, the unique film formulations obtained by mixing the filler with the carrier resin as to form concentrate pellets, and then combining the carrier resin pellets with pellets of the letdown resin in a process with limited mixing such that the resultant film includes the discreet regions or phases of the letdown resin and carrier resin. In fact, the examples set forth in Haffner et al. '900 indicate that the filler particles are obtained from a source different than the polymers and are coextruded with the different polymers.

Accordingly, Applicants respectfully submit that independent claim 1 is not anticipated by Haffner et al. '900. It is also respectfully submitted that the PCT WO '599 publication to Morman et al. does not change the deficiencies discussed above with respect to Haffner et al. '900 and does not render claim 1 obvious even if combined with Haffner et al. '900. There is no teaching, suggestion, or motivation to reconfigure the polymer formulations set forth in Haffner et al. '900 in view of any teaching in the Morman et al. '599 publication.

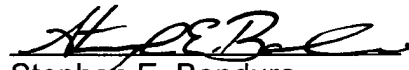
Accordingly, it is respectfully submitted that claim 1 is allowable over the art of record. Claims 2-27 only further patentably define the invention of claim 1 and are thus allowable for at least the reasons claim 1 is allowable.

The provisional double-patenting rejection of claims 1-27 based on co-pending applications numbers 10/703,761 and 10/335,244 are hereby acknowledged. Properly executed terminal disclaimers will be submitted to obviate the double-patenting rejection upon indication that the claims are otherwise allowable.

The Examiner is encouraged to contact the undersigned at his convenience should he have any questions regarding this matter or require any additional information.

Respectfully submitted,

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